

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-AGAINST-

ORDER AND MEMORANDUM
04-CR-1097-02 (S-3) (DRH)

BUNICE KNIGHT,

DEFENDANT.

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A P P E A R A N C E S:

For the Government:

Benton J. Campbell
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By: Nicole Boeckmann, A.U.S.A.

For Defendant:

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HURLEY, Senior District Judge

By letter filed on November 25, 2008, defendant has moved to be resentenced pursuant to 18 U.S.C. § 3582(c)(2) and U.S.S.G. § 1B1.10 (as amended effective March 3, 2008).

Defendant pled guilty on November 9, 2005 of conspiracy to possess with intent to distribute 50 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(A)(iii). He was sentenced by me on May 26, 2006 to 78 months of imprisonment to be followed by five years of supervised release. Probation advises that defendant's "projected release date is September 5, 2009." Apr. 17, 2009 Addendum to the

Presentence Report at 2.

It is agreed by the parties that the motion is addressed to the Court's discretion. In exercising that discretion, the Court should consider the provisions of § 1B1.10(b) and the factors listed in § 3553(a) in conjunction with the lowered guideline range triggered by the crack guideline amendment. Here, the initial guideline range in effect at the time of sentencing was 78 to 97 months. The current adjusted advisory guideline range is 63 to 78 months.

Having reviewed the original presentence report, the updated presentence report dated April 17, 2009, as well as the submissions of the parties, and the sources referenced in the prior paragraph together with the applicable policy statements issued by the Sentencing Commission, defendant's motion is granted to the extent that the term of imprisonment set forth in the judgment dated May 26, 2006 (as amended by judgment dated June 13, 2006), is reduced from 78 months to time served; in all other respects, the initial sentence shall remain in full force and effect.

SO ORDERED.

Dated: Central Islip, New York
May 6, 2009

/S/
DENIS R. HURLEY, U.S.D.J.